

STATE OF WISCONSIN

Senate Journal

Seventy-Seventh Session

WEDNESDAY, November 3, 1965.

1:30 o'clock P.M.

The senate met.

The president in the chair.

Prayer was offered by Father Julius Hetzel of the Sacred Heart Catholic Church, of Sun Prairie, Wisconsin.

The senate remained standing and recited the Pledge of Allegiance to the Flag of the United States.

The roll was called and the following senators answered to their names:

Senators Benson, Bice, Busby, Carr, Christopherson, Dempsey, Dorman, Draheim, Hansen, Hollander, Kendzior-ski, Keppler, Krueger, LaFave, Leonard, Leverich, Lorge, McParland, Meunier, Rasmusen, Risser, Roseleip, Schreiber, Schuele, Smith, Sussman, Thompson, Warren and Zaborski—29.

Absent—Senators Lourigan, Miller and Panzer—3.

Absent with leave—Senator Knowles—1.

LEAVES OF ABSENCE

Senator Miller was granted a leave of absence for the balance of this week's session, upon motion of Senator Leonard, with unanimous consent.

Senator Panzer was granted a leave of absence for today's session, upon motion of Senator Hollander, with unanimous consent.

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Senator Lourigan was granted a leave of absence for today's session, upon motion of Senator Zaborski, with unanimous consent.

PETITIONS AND COMMUNICATIONS

The State of Wisconsin
Office of Attorney General
Madison

The Honorable, The Senate
State Capitol
Madison, Wisconsin

Gentlemen: By Senate Resolution 33, adopted July 28, 1965, an opinion was requested whether Assembly Bill 863 is constitutional. It had passed the Assembly in the form of Substitute Amendment No. 1, A., as amended by Amendment No. 1, A. to such substitute. As so passed it was then concurred in on July 29, 1965 without awaiting the opinion requested from this office. The Governor has now signed this bill into law.

The action of the Senate in passing this bill without awaiting the opinion it had requested from the Attorney General only one day prior to its passage in the Senate makes unnecessary the issuance of an opinion concerning the constitutionality of the bill by this office. Senate Resolution 33, adopted July 28, 1965, is therefore returned herewith without an opinion.

Sincerely yours,

BRONSON C. LA FOLLETTE,

October 26, 1965.

Attorney General.

State of Wisconsin
Department of Administration
Bureau of Management
State Office Building
Madison, Wisconsin 53702

Mr. William P. Nugent
Chief Clerk
State Senate
Madison, Wisconsin 53702

Dear Mr. Nugent: The State Claims Commission is submitting a report to you in accordance with the provisions of

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Section 15.94 of the statutes covering claims heard by it on March 19, August 30 and September 1, 1965.

The amounts recommended for payment under \$500 on claims included in this report have, therefore, under the provisions of the statutes been paid directly by the Commission. The Commission will prepare the bill covering the claim over \$500 recommended for payment and will submit it to the Joint Committee for legislative introduction. This report is for the information of the legislature.

The Claims Commission will appreciate your acceptance of the report and the spreading of it upon the Journal in the 1965 session of the legislature to inform the members of the Senate as to the nature of the type of claims which comes before the Commission for its consideration.

Sincerely,

WAYNE F. MCGOWN,
Secretary.

October 28, 1965

State Claims Commission

BEFORE THE
CLAIMS COMMISSION OF WISCONSIN

Hearings were held at Madison, Wisconsin, on March 19, 1965, upon the following claims:

<i>Name of Claimant</i>	<i>Amount of Claim</i>
1. Lenora and Marvin J. Bischoff -----	\$ 2,922.57
2. Andrew L. and Ione Blastic -----	240.50
3. Graham Garner -----	3,496.00
4. James R. Heath -----	85.00
5. Heritage Mutual Insurance Company -	1,406.08
6. Leonard and Dorothy Kaatz -----	21,063.00
7. Menasha Board of Education -----	962.00
8. Holger Olsen -----	274.88
9. Robert Steppart -----	50,000.00
10. Valfred Thelin -----	400.00

and on March 19, 1965, and September 1, 1965, upon the following claim:

11. Mary Lee ----- 1,849.00

and on March 19, 1965, and August 30, 1965, upon the following claim:

12. Charley Meyer, Jr. ----- 860.00

The Commission Finds:

1. *Lenora and Marvin J. Bischoff*

Lenora and Marvin J. Bischoff claim \$2,922.57 as the result of the condemnation of an entire herd of 263 dairy cattle in May, 1962, because of tuberculosis in some animals in the herd. Of 73 calves and yearlings slaughtered, only 7 were tuberculin reactors or showed lesions upon post-mortem examination. Because of this, the federal government did not pay any indemnity for the 66 non-reactors, whereas the State paid \$3,047.57 indemnity for such animals. The claim is for the amount of the matching federal indemnity which would have been paid had the animals been reactors, less an overpayment of \$125. Federal regulations have been changed and now provide for indemnity in a situation such as this.

As a result of the slaughter of the claimants' herd, they brought an action in federal court against the federal and state veterinarians involved and the United States. That action has been held in abeyance pending the outcome of the present claim. The action will be dismissed upon payment of the present claim and upon payment of the sum of \$2,000 by the federal government, which it has agreed to pay upon allowance of this claim.

The Commission concludes that the claim is one which on equitable principles the State should pay.

2. *Andrew L. and Ione Blastic*

Andrew L. and Ione Blastic claim \$240.50 as a result of the theft, by a ward of the State, of cash and personal property from their home between September 23, 1964, and November 14, 1964. The ward, a juvenile, was placed in the claimants' licensed foster home only two weeks before the thefts began, and those thefts were not discovered until November, 1964. The Commission concludes that on equitable principles the State should pay the claim.

3. *Graham Garner*

Graham Garner claims \$3,496.00 for damages to his cottage and boat on November 2, 1964, by two escapees from the School for Boys at Wales. The evidence does not show negligence on the part of agents or employees of the State, and the Commission concludes that the claim is not one on

which the State is legally liable nor one which on equitable principles the State should pay.

4. James R. Heath

James R. Heath claims \$85.00 for damages to the top of his convertible automobile on September 21, 1964, caused by a ward of the State. The evidence does not show negligence on the part of agents or employees of the State, and the Commission concludes that the claim is not one on which the State is legally liable nor one which on equitable principles the State should pay.

5. Heritage Mutual Insurance Company

Heritage Mutual Insurance Company claims \$1,406.08 as the result of damage to an automobile insured by the claimant, when the vehicle skidded and left State Trunk Highway 46 on June 17, 1964, and for resulting personal injury claims of \$189 paid under the claimant's insurance policy. The Commission concludes that the claim is not one on which the State is legally liable nor one which on equitable principles the State should pay.

Commissioner Wood took no part in the consideration of this claim.

6. Leonard and Dorothy Kaatz

Leonard and Dorothy Kaatz claim \$21,063.00 as a result of the killing of their minor daughter in May, 1964, by a man who had been conditionally released from the Winnebago State Hospital in July, 1963. On September 16, 1964, the man was found guilty of murder in the first degree.

The Commission finds that there was no negligence on the part of agents or employees of the State in releasing the man from the State Hospital and that the claim is not one which on equitable principles the State should pay.

7. Menasha Board of Education

The Menasha Board of Education claims \$962.00 because of increased costs of construction of an addition to the Butte des Morts Junior High School, alleged to be due to an error in the approval of plans by the Industrial Commission on June 5, 1962. The initial plans for the addition showed the location for a dust collector in a shop area, and

these plans were approved without comment about the dust collector. When the addition was completed and the collector installed, it was discovered that the dust collector did not comply with the safety code; and alterations were required. The Commission concludes that \$410.25 of additional expense was incurred because of negligence on the part of employees of the State.

Commissioner Wood took no part in the consideration of this claim.

8. *Holger Olsen*

Holger Olsen claims \$274.88 as a result of damage to his automobile by a ward of the State on November 25, 1964. The Commission concludes that the claim is one which on equitable principles the State should pay, but that damages of only \$100 have been shown.

Commissioner Wood took no part in the consideration of this claim.

9. *Robert Steppert*

Robert Steppert claims \$50,000.00 as the result of injuries incurred November 21, 1964, when a motor vehicle in which the claimant was riding left the highway in the Town of Lake Tomahawk, Oneida County. The accident allegedly was caused by the negligence of the Highway Commission in failing to erect an adequate warning sign after removal of a bridge. The highway where the accident occurred was not part of the State trunk highway system. The Commission concludes that the claim is not one on which the State is legally liable nor one which on equitable principles the State should pay.

10. *Valfred Thelin*

Valfred Thelin claims \$400.00 as the result of an injury to his six-year old son on August 19, 1964, when the son was kicked by a cow at the State Fair. The Commission concludes that the claim is one which on equitable principles the State should pay, but that damages of only \$57.00 have been proven.

11. *Mary Lee*

Mary Lee claims \$1,849.00 as the result of medical expenses incurred for immunization following a bee sting on August 2, 1964, while in the course of her employment. The

claimant received an award under the Workmen's Compensation law but seeks additional compensation. The Industrial Commission determination was not appealed to the Court, and the Commission concludes that the claim is not one on which the State is legally liable nor one which on equitable principles the State should pay.

Commissioner Hollander took no part in the consideration of this claim.

12. *Charley Meyer, Jr.*

Charley Meyer, Jr. claims \$860.00 for damages to his motor vehicle on November 26, 1964. The claimant picked up three escapees from the Wisconsin School for Girls and, upon learning that they were escapees, drove them to the courthouse in Madison. While the claimant momentarily left the vehicle, one of the girls attempted to drive it away but ran into another vehicle. The Commission concludes that the claim is one which on equitable principles the State should pay, but that damages of only \$430.00 have been proved.

The Commission Concludes :

1. That the claims of the following claimants should be denied :

Graham Garner
 James R. Heath
 Heritage Mutual Insurance Company
 Leonard and Dorothy Kaatz
 Robert Steppert
 Mary Lee

2. That payment of the following amounts to the following claimants, respectively, is justified under the provisions of section 15.94, Statutes :

Lenora and Marvin J. Bischoff -----	\$2,922.57
Andrew L. and Ione Blastic -----	240.50
Menasha Board of Education -----	410.25
Holger Olsen -----	100.00
Valfred Thelin -----	57.00
Charley Meyer, Jr. -----	430.00

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Dated at Madison, Wisconsin, this 26th day of October, 1965.

WALTER G. HOLLANDER,
Chairman, Senate
Committee on Finance.

GEORGE MOLINARO,
Chairman, Assembly
Committee on Finance.

ARVID A. SATHER,
Representative of Governor

WARREN D. EXO,
Representative of Commissioner
of Administration.

E. WESTON WOOD,
Representative of Attorney General.

The foregoing report of the Claims Commission was received and referred to the joint committee on Finance.

Ordered spread upon the journal.

Read and referred as follows:

Senate Petition 96

A petition by 495 residents of Wisconsin urging the legislature to repeal the ban on the sale of colored oleomargarine in Wisconsin.

By Senator Leonard. To committee on Agriculture.

Senate Petition 97

A petition by 356 residents of Wisconsin favoring tax-free and yellow-colored margarine.

By Senator Leonard. To committee on Agriculture.

Senate Petition 98

A petition signed by Helen M. Storm and 156 other residents of the 4th Senatorial District petitioning the legislature to repeal the ban on the sale of colored oleomargarine in Wisconsin.

By Senator Leonard. To committee on Agriculture.

Senate Petition 99

A petition by 15 residents of the 18th Senatorial District in Wisconsin favoring tax-free and yellow-colored margarine.

By Senator Hollander. To committee on Agriculture.

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Senate Bill 618

Was recalled from the joint committee on Finance and referred to the calendar, upon motion of Senator Hollander, with unanimous consent.

EXECUTIVE COMMUNICATIONS

To the Honorable, the Senate:

The following bills, originating in the Senate, have been approved, signed and deposited in the office of the Secretary of State.

Senate Bill	Chapter No.	Date Approved
294 -----	321 -----	November 3, 1965
295 -----	322 -----	November 3, 1965
562 -----	323 -----	November 3, 1965
170 -----	324 -----	November 3, 1965

Respectfully submitted,

WARREN P. KNOWLES,

November 3, 1965.

Governor.

MESSAGE FROM THE ASSEMBLY

By James P. Buckley, chief clerk thereof.

Mr. President:

I am directed to inform you that the assembly has concurred in

Senate Joint Resolution 91,
Senate Joint Resolution 98,
Senate Joint Resolution 109,
Senate Bill 7,
Senate Bill 170,
Senate Bill 183,
Senate Bill 191,
Senate Bill 265,
Senate Bill 266,
Senate Bill 287,
Senate Bill 288,
Senate Bill 311,
Senate Bill 429,

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Senate Bill 443,
Senate Bill 453,
Senate Bill 564,
Senate Bill 570,
Senate Bill 585,
Senate Bill 586,
Senate Bill 589,
Senate Bill 591,
Senate Bill 592,
Senate Bill 593,
Senate Bill 602,
Senate Bill 605,
Senate Bill 609,
Senate Bill 611,

Substitute amendment No. 1, S. to Assembly Bill 77,

Amendment No. 1, S. to Assembly Bill 105,

Amendment No. 1, S. to Assembly Bill 301,

Amendment No. 1, S. to Assembly Bill 464,

Amendment No. 1, S. to Assembly Bill 465,

Amendment No. 1, S. to Assembly Bill 627,

Amendment No. 1, S. and amendment No. 2, S. to Assembly Bill 690,

Amendment No. 1, S. to Assembly Bill 779 and

Amendment No. 1, S. to Assembly Joint Resolution 110 and

The senate action, upon motion of Assemblyman Mittness, pursuant to Joint Rule 26 directing the Legislative Reference Bureau to prepare a suitable joint certificate of Congratulations to Dr. W. T. Clark of Janesville, commending him for 22 years of outstanding public service as a member of the State Board of Health, a position to which he was first appointed by Governor Walter S. Goodland in 1943; and Whereas, his fellow board members recognized the high qualification of Dr. Clark and elected him vice president in 1959 and president in 1960 which latter position he held until July 1965. The Members of the Wisconsin Legislature express to Dr. W. T. Clark the gratitude of the people of Wisconsin for a life time of public service; and

The senate action, upon motion of Assemblyman Froehlich, pursuant to Joint Rule 26, directing the Legislative Reference Bureau to prepare a suitable joint certificate of Congratulations commending the Philip Malin Family of Genoa who has been awarded the Farmers Home Administration Award as Wisconsin Family of the Year in recogni-

tion of their outstanding human qualities evidence by their remarkable success through their family teamwork and harmony in their home life. The Members of the Wisconsin Legislature commend and congratulate the Philip Malin Family on their well deserved recognition and wish them continued success in their wonderful family cooperation; and has

Concurred in notwithstanding objections of the Governor Senate Bill 314.

Upon motion of Senator Leonard, with unanimous consent, the senate recessed until 2:15 o'clock this afternoon.

RECESS

2:15 o'clock P.M.

The senate was called to order by the president.

FURTHER MESSAGE FROM THE ASSEMBLY

By James P. Buckley, chief clerk thereof.

Mr. President:

I am directed to inform you that the assembly has amended and concurred in as amended

Senate Bill 27,
Senate Bill 176,
Senate Bill 225,
Senate Bill 338,
Senate Bill 425,
Senate Bill 513,
Senate Bill 557,
Senate Bill 568,
Senate Bill 580 and
Senate Bill 601 and has

Adhered to its position on

Substitute amendment No. 1, A. to Senate Joint Resolution 36, requests a committee of Conference and has appointed Messrs. Barland, Lipscomb and Nager as conferees on its part.

ASSEMBLY MESSAGE CONSIDERED

Senate Bill 27

Senator Leonard asked unanimous consent that the bill be re-referred to the committee on Judiciary.

Senator Schreiber objected.

The bill was laid aside temporarily, upon motion of Senator Leonard, with unanimous consent.

Senate Bill 176

Relating to revealing the contents of or giving secret scientific or technical processes, information of formulas, and providing a penalty.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 1, A. was concurred in.

Amendment No. 2, A. was concurred in.

Amendment No. 3, A. was concurred in.

Senate Bill 225

Amendment No. 1, S. to amendment No. 4, A. was offered by Senator Rasmusen.

The bill was laid aside temporarily, upon motion of Senator Risser, with unanimous consent.

Senate Bill 338

Providing for technical improvements of the state teachers retirement system.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 1, A. as concurred in.

Senate Bill 425

Relating to branches for Wisconsin savings and loan associations.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 1, A. was concurred in.

Senate Bill 513

Relating to high school tuition upon change or acquisition of residence.

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Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 1, A. was concurred in.

Senate Bill 557

Relating to special procedures for and financing of flood control projects.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Substitute amendment No. 1, A. was concurred in.

Senate Bill 568

Relating to an increase in compensation for county judges.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 2, A. was concurred in.

Senate Bill 580

Relating to prior service credits under the Wisconsin retirement fund for employes of participating municipalities other than the state.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 1, A. was concurred in.

Senate Bill 601

An act to create a temporary committee to make recommendations on **Senate Bill 221 and 434**.

Was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Amendment No. 1, A. was concurred in.

Amendment No. 2, A. was concurred in.

Senate Joint Resolution 36

Relating to the retirement and leigibility for office and service after retirement of supreme court justice and judges of other courts of record.

The joint resolution was considered at this time, upon motion of Senator Leonard, with unanimous consent.

The senate adhered to its position on substitute amendment No. 1, A.

The senate agreed to a committee of Conference, upon motion of Senator Leonard, with unanimous consent.

Senate Bill 27

Relating to inadmissibility of recorded telephone conversations.

Amendment No. 2, A. was concurred in.

The senate's action was ordered immediately messaged to the assembly.

Senate Bill 225

Senator Hollander asked unanimous consent that the bill which had been laid aside temporarily earlier be referred to the calendar.

Senator Risser objected.

Senate Joint Resolution 36

The president appointed Senators Busby, McParland and Warren as senate members of the committee of Conference.

The members of the committee of Conference were confirmed, upon motion of Senator Leonard.

The senate's action was ordered immediately messaged to the assembly.

Upon motion of Senator Leonard, with unanimous consent, all measures on which final action had been taken at this afternoon's session and not individually messaged were ordered immediately messaged to the assembly.

FURTHER MESSAGE FROM THE ASSEMBLY

By James P. Buckley, chief clerk thereof.

Mr. President:

I am directed to inform you that the assembly has adopted and asks concurrence in

The action by which the assembly, upon motion of Assemblyman Atkinson, pursuant to Joint Rule 26, has directed the Legislative Reference Bureau to prepare a suitable joint certificate of Congratulations to the Municipal Band of the City of South Milwaukee on the occasion of their 30th Anniversary, hoping for them many more years of successful competition and municipal service; and

The action by which the assembly, upon motion of Assemblymen Vanderperren and Kafka, pursuant to Joint Rule 26, has directed the Legislative Reference Bureau to pre-

pare a suitable joint certificate of Congratulations to Mr. Steve Suidzinski of Route 2, Denmark, Wisconsin on the occasion of his 50th anniversary as a cheesemaker, wishing him continued success in this profession which is so important to the economy of Wisconsin and has

Concurred in
**Senate Joint Resolution 114 and
Amendment Nos. 5, S., 10, S., 12, S. and 16, S. to Assembly Bill 852.**

ASSEMBLY MESSAGE CONSIDERED

The assembly's action under Joint Rule 26 pursuant to motion by Assemblyman Atkinson was concurred in, upon motion of Senator McParland.

The assembly's action under Joint Rule 26 pursuant to motion of Assemblymen Vanderperren and Kafka was concurred in, upon motion of Senator Warren.

The senate's action was ordered immediately messaged to the assembly.

Upon motion of Senator Leonard, with unanimous consent, the senate resolved that when the senate adjourns today it adjourn in honor of the birthday of Senator Benson which was celebrated yesterday.

Senator Kendziorski in the chair.

Assembly Bill 828

Providing relief against fraudulent trade practices.

On the calendar of Tuesday, October 26th was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Read a second time.

Senator Schreiber moved that amendment No. 1, S. be rejected.

The ayes and noes were demanded and the vote was: ayes, 14; noes, 15; absent or not voting, 4; as follows:

Ayes—Senators Benson, Busby, Christopherson, Dempsey, Dorman, Hansen, Kendziorski, McParland, Risser, Schreiber, Schuele, Sussman, Thompson and Zaborski—14.

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Noes—Senators Bice, Carr, Draheim, Hollander, Keppler, Krueger, LaFave, Leonard, Leverich, Lorge, Meunier, Rasmusen, Roseleip, Smith and Warren—15.

Absent or not voting—Senators Knowles, Lourigan, Miller and Panzer—4.

So the motion did not prevail.

Assembly Bill 828

Senator Warren moved that the bill be referred to the committee on Judiciary.

Senator Zaborski asked unanimous consent that the senate recess for 10 minutes.

Senator Krueger objected.

Upon motion of Senator Leonard, with unanimous consent, the senate recessed until 4:50 o'clock this afternoon.

RECESS

4:50 o'clock P.M.

The senate was called to order by the president.

Assembly Bill 828

With unanimous consent, Senator Warren withdrew his motion.

The bill was referred to the committee on Judiciary, upon motion of Senator Warren, with unanimous consent.

Senate Bill 616

On today's calendar, was considered at this time, upon motion of Senator Leonard, with unanimous consent.

Read a second time.

The bill was referred to the joint committee on Finance, upon motion of Senator Risser, with unanimous consent.

Senator Leonard asked unanimous consent that the bill be recalled from the joint committee on Finance and considered at this time.

Senator Risser objected.

Senate Bill 616

For increased promotion of Wisconsin.

Senator Leonard moved that the rules be suspended and that the bill be recalled from the joint committee on Finance and considered at this time.

The ayes and noes were required and the vote was: ayes, 17; noes, 12; absent or not voting, 4; as follows:

Ayes—Senators Bice, Busby, Carr, Dempsey, Draheim, Hollander, Keppler, Krueger, LaFave, Leonard, Leverich, Lorge, Meunier, Rasmusen, Roseleip, Smith and Warren—17.

Noes—Senators Benson, Christopherson, Dorman, Hansen, Kendzioriski, McParland, Risser, Schreiber, Schuele, Sussman, Thompson and Zaborski—12.

Absent or not voting—Senators Knowles, Lourigan, Miller and Panzer—4.

So the motion did not prevail, a two-thirds vote being required.

GUESTS INTRODUCED

Senator Christopherson introduced Mr. Ed Birch, Assessor for the City of Superior, Wisconsin.

Senator Keppler introduced First Class Boy Scout Michael Oertle, a member of scout troop 63 of Random Lake, Wisconsin, a recipient of a medal for bravery from Governor Warren Knowles, for saving the lives of two girls. He was accompanied by his parents, Mr. and Mrs. Lawrence Oertle, Jr., and Scout Executive Mr. Paul A. Salerno.

Senator Meunier introduced Mr. Norbert Schachtner, Door County Agricultural Agent and Mr. Fred Wickmann, Councilman of the city of Sturgeon Bay.

Upon motion of Senator Leonard, and in honor of Senator Benson, who celebrated his birthday yesterday, the senate adjourned until 9:00 o'clock Thursday morning, November 4th, 1965.

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CHIEF CLERK'S REPORT

The chief clerk records

**Senate Bill 35,
Senate Bill 97,
Senate Bill 114,
Senate Bill 129,
Senate Bill 134,
Senate Bill 159,
Senate Bill 223,
Senate Bill 241,
Senate Bill 261,
Senate Bill 264,
Senate Bill 294,
Senate Bill 295,
Senate Bill 320,
Senate Bill 405,
Senate Bill 468,
Senate Bill 491,
Senate Bill 550 and
Senate Bill 562.**

Were correctly enrolled and presented to the Governor on Monday at 10:15 o'clock A.M., November 1 ,1965.

And records:

Senate Bill 170

Was correctly enrolled and presented to the Governor on Wednesday at 9:15 o'clock A.M., November 3 ,1965.